

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

JOHN CASILLAS

Petitioner

vs

UNITED STATES OF AMERICA

Respondent

CIVIL 97-1645CCC

**O R D E R**

Having considered the Petition for Leave to File Motion to Open Judgment Dated March 22, 2002 Pursuant to Rule 60(b)(6) of the Federal Rules of Civil Procedure, 28 U.S.C.A. (**docket entry 70**), the same is DENIED, without prejudice, as premature. The Supreme Court has yet to determine whether or not Blakely and Booker are to be retroactively applied. See Cuevas v. Derosa, 386 F.3d 367, 368 (1<sup>st</sup> Cir. 2004). Apprendi does not apply retroactively. Sepúlveda v. United States, 330 F.3d 55 (1<sup>st</sup> Cir. 2003).

SO ORDERED.

At San Juan, Puerto Rico, on March 30, 2005.

S/CARMEN CONSUELO CEREZO  
United States District Judge